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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.     |
|--|-------------|----------------------|---------------------|----------------------|
| 10/690,392   | 10/20/2003  | William C. Dodge     | 81070/7400          | 3760                 |
| 22242  | 7590        | 08/19/2005           | EXAMINER            |                      |
| FITCH EVEN TABIN AND FLANNERY<br>120 SOUTH LA SALLE STREET<br>SUITE 1600<br>CHICAGO, IL 60603-3406 |             |                      |                     | HUTTON JR, WILLIAM D |
| ART UNIT   |             | PAPER NUMBER         |                     |                      |
|  |             | 2176                 |                     |                      |

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/690,392             | DODGE, WILLIAM C.   |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Doug Hutton            | 2176                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 and 12-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20040504</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Applicant's Response***

In Applicant's Response dated 13 June 2005, Applicant elected the invention recited in Group I without traverse and cancelled Claims 4-11.

***Specification***

The disclosure is objected to because of the following informalities:

- the term "to" should be inserted between the term "*related*" on Page 10, Line 32 and the term "*the*" on Page 10, Line 33 so that the sentence is grammatically correct;
- the term "to" should be inserted between the number "800" and the term "*the*" on Page 13, Line 4, so that the sentence is grammatically correct; and
- the term "place" on Page 13, Line 31, should be amended to – placed – because so that the sentence is grammatically correct.

Appropriate correction is required.

***Drawings***

The drawings are objected to because, in Figures 4, 7-9, 12, 14-16, 18 and 20-22, some of the text is illegible for the following reasons: 1) the text is too small, and/or 2) the text is marked over by lines or stippling. Applicant must amend the drawings so that all text in the **window title bars**, **drop-down lists** and **menu bars** of the multiple windows in the GUIs is clear of stippling and legible.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 and 12-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

*Claims 1-3 and 12-15:*

The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

In regard to Claims 1-3, the recited invention includes creating a chart by displaying tasks within the chart. In regard to Claims 12-15, the recited invention includes accessing project data and displaying project tasks.

As currently recited, the claimed invention is so abstract and sweeping that it covers the method as practiced by a human operator assisted only by pencil and paper. The claims do not include a particular machine or apparatus, and no machine-implemented steps are recited. Every step is capable of performance by the human mind. A method of this sort, traditionally called a "mental process," is not patentable subject matter.

"Phenomena of nature, though just discovered, "mental processes," abstract intellectual concepts are not patentable as they are the basic tools of scientific and technological work." (emphasis added) *Gottschalk v. Benson*, 75 U.S.P.Q. 673, 675

(U.S.S.C. 1972). See also, *In re Prater and Wei*, 159 U.S.P.Q. 583 (1968), *rehearing* U.S.P.Q. 571 (1969).

Applicant may obviate this rejection by amending the preamble of Claims 1 and 12 to — A computerized method of creating a program management chart comprising the steps of: —.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Marmel, Elaine, Microsoft Project 2000 Bible, Chapter 17 – “Coordinating Multiple Projects” (IDG Books Worldwide, Inc., © 2000).

*Claim 1:*

Marmel discloses a *method of creating a program management chart* (see Pages 457-480 – Marmel discloses this limitation, as clearly indicated in the cited pages), *comprising the steps of:*

- *displaying a plurality of tasks within a selected set of data as a first part of the program management chart* (EXAMINER’S INTERPRETATION – The examiner is interpreting this limitation to be the “work breakdown structure” tree

displayed on the left side of the GUI in Figure 4 of the present invention. In Marmel, see Pages 457-480 – Marmel discloses this limitation in that MS Project allows a user to consolidate projects by inserting multiple project files into one large consolidated project file, thus saving the various parts of the consolidated project file into separate files. The organizational structure of the consolidated project file is saved, so that the hierarchy of the various parts can be displayed in conjunction with a Gantt chart.); and

- *displaying a task that is outside of the selected set of data but that is associated with at least one of the plurality of tasks within the selected set of data as a second part of the program management chart (EXAMINER'S*

**INTERPRETATION** – The examiner is interpreting this limitation to be the **Gantt chart** displayed on the right side of the GUI in Figure 4 of the present invention. In Marmel, see Pages 457-480 – Marmel discloses this limitation in that MS Project allows the user to link tasks across the various parts of a consolidated project. In a consolidated project, you typically have tasks in one part of the project that are dependent on tasks in another part of the project (i.e., “external” tasks). Whenever the Gantt chart for a project is displayed, MS Project displays the external tasks for that project.).

*Claim 2:*

Marmel discloses *the method of Claim 1, further comprising the step of differentiating between the plurality of tasks within the selected set of data and the task*

*that is outside of the selected set of data* (In Marmel, see Pages 457-480 – Marmel discloses this limitation in that MS Project displays external tasks in a different color.).

*Claim 3:*

Marmel discloses *the method of Claim 1, wherein the task that is outside of the selected set of data is outside of a project that contains the selected set of data* (as indicated in the above rejection for Claim 1, Marmel discloses this limitation).

*Claim 12:*

Marmel discloses *a method of creating a program management chart* (as indicated in the above rejection for Claim 1, Marmel discloses this limitation), *comprising the steps of:*

- *accessing a subset of data within a project* (**EXAMINER'S INTERPRETATION** –

The examiner is interpreting this limitation to indicate that the **data in the various parts of the “work breakdown structure” tree** displayed on the left side of the GUI in Figure 4 of the present invention **can be accessed** by the user. In Marmel – As indicated in the above rejection for Claim 1, Marmel discloses that the organizational structure of the consolidated project file is saved, so that the hierarchy of the various parts can be displayed in conjunction with a Gantt chart. As indicated in the cited text, the hierarchy is displayed on the left, and the corresponding Gantt chart is displayed on the right. The user

may select the data for various levels of the consolidated project by opening and closing the hierarchical levels.);

- *displaying a plurality of tasks associated with the subset of data (EXAMINER'S INTERPRETATION* – The examiner is interpreting this limitation to be the **internal tasks of the project displayed in the corresponding Gantt chart**, as is displayed on the right side of the GUI in Figure 4 of the present invention. In Marmel – As previously indicated, Marmel discloses that MS Project displays the internal tasks for the selected hierarchical portion of the consolidated project in a Gantt chart.); and
- *displaying a task that is outside of the subset of data (EXAMINER'S INTERPRETATION* – The examiner is interpreting this limitation to be the **external tasks of the project displayed in the corresponding Gantt chart**, as is displayed on the right side of the GUI in Figure 4 of the present invention. In Marmel – As previously indicated, Marmel discloses that MS Project displays the external tasks for the selected hierarchical portion of the consolidated project in a Gantt chart.).

*Claim 13:*

Marmel discloses *the method of Claim 12, wherein the task that is outside of the subset of data is a task within the project* (see Pages 457-480 – Marmel discloses this limitation in that MS Project allows a user to include many sub-project files in a consolidated project file and display the Gantt chart for any one of the sub-project files.

When the Gantt chart for the sub-project file is displayed, the Gantt chart will display any external tasks located in another sub-project file. Thus, the external task is “*within the project.*”).

*Claim 14:*

Marmel discloses *the method of Claim 12, wherein the task that is outside of the subset of data is a task outside of the project* (see Pages 457-480 – Marmel discloses this limitation in that MS Project allows a user to include many project files in a **consolidated** project file and display the Gantt chart for any one of the project files. When the Gantt chart for the project file is displayed, the Gantt chart will display any external tasks located in another project file. Thus, the external task is “*outside of the project.*”).

*Claim 15:*

Marmel discloses *the method of Claim 12, further comprising the step of accessing a header relating to the task that is outside of the subset of data*  
**(EXAMINER’S INTERPRETATION** – The examiner is interpreting this limitation to mean accessing any data that **allows a representation of an external task to be displayed** in the Gantt chart for the selected data **without having all of the data in the external task open**. In Marmel, see Pages 457-480 – Marmel discloses this limitation in that MS Project displays external tasks in the Gantt chart for the selected hierarchical portion of the consolidated project. At this point, ***all*** of the data in the external task is

not open. The user can access all of the data in the external task by double clicking on the external task in the Gantt chart.).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Srinivasan, U.S. Patent No. RE38,633; Frisco et al., U.S. Patent Application Publication No. US 2003/0061330; Miller, U.S. Patent No. 6,101,481; Chereau et al., U.S. Patent Application Publication No. US 2005/0027582; Taqbeem et al., U.S. Patent Application Publication No. US 2003/0233268; Kern et al., U.S. Patent Application Publication No. US 2002/0188597; Charisius et al., U.S. Patent Application Publication No. US 2002/0107914; Toub et al., U.S. Patent No. 6,674,450; and Boris et al., U.S. Patent No. 6,834,285.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Doug Hutton whose telephone number is (571) 272-4137. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached at (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

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Art Unit: 2176

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WDH  
August 17, 2005



**DOUG HUTTON  
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TECH CENTER 2100**